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BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL )  
DEVELOPMENT PERMIT DENIED BY )  
SAN JUAN COUNTY TO STATE OF )  
WASHINGTON, DEPARTMENT OF )  
NATURAL RESOURCES )  
STATE OF WASHINGTON, )  
DEPARTMENT OF NATURAL RESOURCES, )  
Appellant, )  
v. )  
SAN JUAN COUNTY, )  
Respondent, )  
DARIEL FIRESTONE, HENRY S. )  
BURDEN, STATE OF WASHINGTON, )  
DEPARTMENT OF ECOLOGY, and )  
SLADE GORTON, ATTORNEY GENERAL, )  
Intervenors. )

SHB No. 78-18

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the request for review of a substantial development permit denied by San Juan County to State of Washington, Department of Natural Resources, was brought before the Shorelines Hearings Board,

1 Dave J. Mooney, Chairman, Chris Smith, Robert E. Beaty, David A. Akana,  
2 and Rodney Proctor, on August 24 and 25, 1978 in Friday Harbor,  
3 Washington. Hearing examiner William A. Harrison presided.

4 Appellant, Department of Natural Resources, appeared by Theodore  
5 O. Torve, Assistant Attorney General; intervenor, Department of  
6 Ecology, appeared by Robert E. Mack, Assistant Attorney General.  
7 Respondent, San Juan County, appeared by C. Thomas Moser, Prosecuting  
8 Attorney; intervenors, Daniel Firestone and Henry S. Burden, appeared by  
9 their attorney, Alfred J. Schweppe.

10 Having heard the testimony, having examined the exhibits, having  
11 viewed the site of the proposed development, having read the Hearing  
12 Memoranda, having heard the arguments of counsel, and being fully  
13 advised, the Shorelines Hearings Board makes the following

#### 14 FINDINGS OF FACT

##### 15 I

16 The State of Washington owns, and the Department of Natural  
17 Resources ("DNR") manages, a waterfront tract of land on San Juan  
18 Island at Griffin Bay. The tract is oblong (1,900' x 327'), and is  
19 bounded on three sides by privately owned land while the fourth side  
20 consists of beach on the Bay. See Exhibits A-11 and A-16. While  
21 there is a rudimentary road on the tract and homes on nearby private  
22 land, the character of the area is one of restful natural beauty.

23 On January 19, 1978, the DNR filed with San Juan County an  
24 application for a substantial development permit under the Shoreline  
25 Management Act of 1971, chapter 90.58 RCW. The proposed development  
26 consisted of two mooring buoys, five campsites within a dense stand of  
27

1 timber, one group fire ring, four picnicking sites, two vault toilets, a  
2 well, signing, fencing, screening and improvement of the existing access  
3 road. This road is to be used for administrative access only and would  
4 be gated and locked to prevent public access from the uplands. The  
5 purpose of the proposed development is to provide a boating destination  
6 site. The tract is well suited for this purpose in that the bank along-  
7 side the Bay is low and anchorage in the Bay is facilitated by the sand  
8 and gravel bottom (as opposed to rocks and mud). Rock and mud bottoms  
9 which are common throughout the San Juans do not make secure moorage  
10 sites. In addition, the tidelands extending approximately one-quarter  
11 mile northward and one mile southward of the tract are public tidelands  
12 managed by the DNR. See Exhibit A-11.

3 There has been a steady increase in the number of pleasure boaters  
14 on the waters of San Juan County. Despite existing recreational  
15 facilities, there is a need for additional boater destination sites.

16 On April 20, 1978, DNR filed with San Juan County a "Proposed  
17 Declaration of Non-Significance" under the State Environmental Policy  
18 Act (SEPA), chapter 43.21C RCW. The DNR thereby proposed that no  
19 environmental impact statement need be prepared regarding the proposed  
20 development. This negative threshold determination was based upon  
21 the environmental checklist form prescribed by the SEPA Guidelines  
22 at WAC 197-10-360. The checklist form was also filed with San Juan  
23 County. The County expressed no opposition to the Proposed Declaration  
24 of Non-Significance during the 15-day period specified in WAC 197-10-340  
25 and 197-10-345, and the DNR entered a Final Declaration on May 8, 1978.

26 On May 9, 1978, after detailed study, the County Planning

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Department made its report on the proposed development to the Board of County Commissioners. That report recommended approval of the shoreline permit application subject to ten conditions. See Exhibit A-14.

On May 15, 1978, the Board of County Commissioners held a hearing on the shoreline permit application and through letters and testimony learned of opposition to the proposed development by neighbors and other citizens. No opposition was expressed by the County Engineer or the County Sanitarian. See Exhibit A-14. The Board of County Commissioners unanimously denied the application without stating reasons.

Thereafter the DNR filed with this Hearings Board its Request for Review of the County's shoreline permit denial. The Department of Ecology was permitted to intervene in support of the DNR. Firestone and Burden, owners of property near the site, see Exhibit A-16, were permitted to intervene in support of San Juan County.

## II

The tract in question was purchased by the state in 1972 using combined state and federal funds expressly earmarked for outdoor recreation. See Exhibit A-5. The DNR may propose further development of the site, beyond that now proposed to the County in the shoreline application. However, such further development is not before the Board at this time.

## III

The Shoreline Master Program adopted by San Juan County was approved by the Department of Ecology in October, 1976. WAC 173-19-360. The Master Program designates the shoreline area at the subject site

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1 "Rural" from the line of ordinary high tide shoreward 200 feet and  
2 "Aquatic" from that same line, seaward. See Exhibit A-4B.

3 Concerning the "Rural" designation, the Master Program contains  
4 this Statement of Purpose:

5 The purpose of the Rural Environment is to protect agricultural  
6 and timber lands from urban and suburban expansion, to restrict  
7 intensive development along undeveloped shorelines and to  
8 maintain open spaces and opportunities for recreational and  
9 other uses compatible with agricultural activities. § 4.04,  
10 p. 13.

11 Under Rural Management Policies it is stated that:

12 4. Public and private recreational facilities which can be  
13 located and designed so as to create minimal conflicts  
14 with agriculture and forestry should be encouraged.  
15 . . . . § 4.04, p. 13.

16 The development proposed for the "Rural Environment" includes only  
17 four picnic sites (tables and fire rings), a waste water drain and a  
18 garbage can.

19 Concerning the "Aquatic" designation, the Master Program contains  
20 this Statement of Purpose:

21 The purpose of the Aquatic Environment is to protect the  
22 quality and quantity of the water, to preserve the water  
23 surfaces and foreshores for shoreline dependent uses, such  
24 as navigation, aquatic habitats and recreation, and to  
25 preserve and ensure the wise use of the Aquatic area's  
26 natural features and resources, which are substantially  
27 different in character from those of the adjoining uplands  
28 and backshores. § 4.07, p. 17.

29 The development proposed for the "Aquatic Environment" is limited to two  
30 mooring buoys. Because these would also be seaward of the line of  
31 extreme low tide, they would, in this case, be within "Shorelines of  
32 state-wide significance." RCW 90.58.030(2)(e)(iii). Concerning public

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1 access and recreation in such areas, the parties have called attention  
2 to the following Master Program provisions:

3 6.03 Policies Governing the Use of Shorelines of Statewide  
4 Significance (p. 63)

5 . . .

6 5. Public access to publicly owned areas of shorelines of  
7 statewide significance should be increased.

8 6. Recreational opportunities for the public on shore-  
9 lines of statewide significance should be increased.

10 Other pertinent provisions of the Master Program are these:

11 3.04 Public Access (p. 6)

12 Policies

13 1. Public agencies should be encouraged to acquire or  
14 otherwise assure appropriate public access to public  
15 shorelines.

16 . . .

17 3. The County government should be cognizant of the  
18 natural limitations and characteristics of each  
19 island and should consider resident preferences in  
20 determining public access routes and areas on each  
21 island.

22 . . . .

23 3.06 Recreation (pp. 7, 8)

24 . . .

25 Policies

26 1. Recreational use of the shorelines must be recognized as  
27 only one of many potential uses and should be subject to  
the same constraints as other recognized shoreline uses.

28 . . .

29 3. Privately and publicly owned recreational facilities  
30 should be required to provide adequate water supply,  
31 fire protection and waste control, and to otherwise

1 meet public health, safety and general welfare  
2 standards.

3 . . .

4 5. The County may review any proposed recreational  
5 activity or development, public or private, to  
6 determine the degree to which it is consistent with  
7 local policies and projected needs.

8 6. Non-water related recreational facilities may be  
9 required to locate outside of the shoreline area.

10 . . .

11 10. Agencies seeking to acquire additional public  
12 recreation lands may be discouraged until their  
13 existing public lands are properly developed and  
14 capable of being properly used for recreation.

15 5.16 Recreation (p. 50)

16 . . .

17 Policies

18 1. Preference should be given to developments which  
19 provide for recreational activities and improve-  
20 ments facilitating public access to the shoreline.

21 . . .

22 6. The county's limited supply of shoreline areas  
23 suitable for recreational use should be protected  
24 from inappropriate and wasteful uses, such as  
25 parking areas. Roadside view areas should be  
26 permitted in suitable locations, however.

27 . . . .

IV

28 Intervenor, Firestone and Burden, together with the County, raise  
29 five specific objections to the DNR's proposed boater destination site.  
30 We take these up now and make our findings as follows:

31 1. Trespass. Because the site is bounded by private property there  
32 now exists the possibility that someone from DNR's site will cross a

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1 private boundary and thereby trespass upon privately owned land. We  
2 find, however, that even with the proposed development such trespass  
3 will probably be an infrequent event. In the first place, the project  
4 is designed for low intensity use. Furthermore, the DNR proposes  
5 regular maintenance inspections two to three times each week during  
6 the summer. Fences and signing on the upland will be used to notify  
7 visitors of the boundaries of the public ownership. The DNR is  
8 preparing a brochure setting out the boundaries of public tidelands in  
9 San Juan County. Marking of the public tidelands with signs should  
10 also be carried out in San Juan County. In addition, local police  
11 may be called upon in the normal manner should the situation require it.

12 2. Fire. To combat any fire which may begin on the site, the  
13 DNR has a 300-gallon pumper truck which is stationed on San Juan Island  
14 In addition, it owns a fire-fighting helicopter, based at Sedro Wooley,  
15 which can use sea water for fire fighting. Further, the private  
16 road constructed by Wade, the owner of the property abutting on the  
17 south, will serve as a fire break for the protection of the Wade and  
18 Burden homes. See Exhibit A-7. To further reduce fire hazard, the  
19 five campsites proposed should not be located in the timber, however.

20 Lastly, the local fire authorities are not prohibited from  
21 responding to a fire on the site should the DNR's response be insufficient  
22 for any reason. We find that the governmental authorities involved have  
23 adequate personnel and equipment to control fire danger on the site.

24 3. Pollution. The proposed development poses no significant  
25 threat of air pollution, water pollution or littering. Campfires  
26 built in the limited locations where fire rings will be built should



1 pose no genuine smoke problem. Vault toilets and a waste water drain are  
2 provided to prevent contamination of surface or ground water. Garbage  
3 cans are provided to prevent littering. Abuse or carelessness by  
4 visitors can be adequately controlled by DNR officers or local police  
5 officers if and when it occurs.

6 4. Wildlife. There is an active eagle nest some 900 feet south  
7 of the site. This distance constitutes a sufficient buffer between the  
8 site and the nest. The casual presence of persons on the Firestone and  
9 Burden (intervenors') properties, the construction of the Burden home and  
10 the regular arrival and departure of the Burden airplane, all in close  
11 vicinity to the nest, have so far had no noticeable adverse effect  
12 on eagle nesting. No material danger to eagles or other wildlife  
13 is posed by the development.

14 5. Property Value. Intervenors, Firestone and Burden, fear a  
15 decline of 30-40 percent in the fair market value of their real  
16 property if the DNR's development is permitted. Nevertheless, intervenors  
17 did not prove that any decline in value would occur. Intervenor Firestone  
18 acquired her property after the DNR purchased the site in question. Both  
19 Firestone and Burden have made substantial improvements to their  
20 properties while knowing of the DNR's ownership of the site.

21 V

22 Any Conclusion of Law which should be deemed a Finding of  
23 Fact is hereby adopted as such.

24 From these Findings, the Shorelines Hearings Board comes to these  
25

26  
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CONCLUSIONS OF LAW

I

Scope of Board's Review. The Shoreline Management Act, chapter 90.58 RCW, provides for a de novo hearing before this Board. Attorney General v. Grays Harbor County, Slenes and Department of Ecology, SHB No. 231. The evidence is therefore not limited to that which was presented at the local government level. The DNR, as one denied a shoreline permit, may therefore present additional information concerning its proposed development at the hearing before this Board, even though the same was not presented to local government. Likewise, the failure of local government to supply reasons, at the time, for its shoreline permit denial, is a defect which, as to appellant, is cured by this Board's hearing. Within our hearing, reasons supporting the denial can and must be put forth by the local government. These may be supplemented by the reasons of an intervenor who supports the decision of local government.

II

Scope of the Proposed Development. The proposed development is not coercive of future expansion. It can operate indefinitely as proposed. Nevertheless, the DNR included in its threshold determination under SEPA, 43.21C RCW, the possibility that ten additional campsites would be added. (See Item 10, Exhibit A-21.) This is consistent with the broad scope that must be applied to a proposal under SEPA. WAC 197-10-060(2) (a and b). Because environmental concerns for future expansion were considered as required by SEPA, and because the proposed development is not coercive of future expansion, the particular concerns of the Shore-

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1 line Management Act need only be directed at the development proposed  
2 in the application, which does not include future expansion.

3 III

4 Proposed Development and SEPA. Appellant urges that intervenors  
5 cannot raise SEPA issues in this proceeding and cites Brocard v. San Juan  
6 County, SHB 181. In that case we held that where an intervenor could  
7 have raised SEPA issues before us as a person aggrieved by permit  
8 issuance, and fails to do so, he cannot later raise such issues during  
9 our review of that permit's termination. Brocard is distinguishable  
10 from this case, however, because these intervenors, Firestone and  
11 Burden, seek to support the County's permit denial, and thus had no  
12 earlier opportunity to raise SEPA compliance before us as "persons  
13 aggrieved" by the denial. RCW 90.58.180(1). They may therefore raise  
14 contentions relating to SEPA compliance now.

15 An environmental impact statement is required before any branch  
16 of government undertakes a "major action significantly affecting the  
17 quality of the environment." RCW 43.21C.030(2)(c). The DNR's  
18 proposed development is a "major action." WAC 197-10-040(24). The DNR,  
19 as lead agency, therefore properly undertook a threshold determination to  
20 discover whether its action would significantly affect the quality of the  
21 environment. The DNR concluded that it would not.

22 The intervenors first contend that the DNR's negative threshold  
23 determination (see Exhibit A-21) is void for failure to state findings  
24 of fact or reasons to support its conclusion. We disagree. Attached  
25 to its negative determination is an "Environmental Checklist Form" as  
26 prescribed by the SEPA Guidelines at WAC 197-10-365. We conclude that

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1 this checklist constitutes facts in support of the negative  
2 determination. As such, it provides the public with "an opportunity  
3 to understand or consider" the DNR's negative determination. Sisley v.  
4 San Juan County, 89 Wn.2d 78, 86 (1977). It furthermore provides a  
5 reviewable record on appeal and evidences "actual consideration of  
6 environmental factors" before the negative determination. Sisley,  
7 supra at p. 86. Use of such a checklist was foreshadowed in footnote  
8 one of Sisley, supra, the facts of which occurred before the legislature  
9 charged the Council on Environmental Policy with responsibility of  
10 developing WAC 197-10 which provides for the Environmental Checklist.

11 The intervenors next contend that the outcome of DNR's threshold  
12 determination should be affected by the presence of nearby beaches  
13 which San Juan County has designated "environmentally sensitive" under  
14 SEPA. We disagree. The threshold determination of whether an environ-  
15 mental impact statement is required must be made where, as here, there  
16 is a proposal for "major action". RCW 43.21C.030(2)(c) and  
17 WAC 197-10-300. The SEPA Guidelines have categorically exempted certain  
18 activities from the definition of "major action", and thus they are not  
19 subject to the requirement for a threshold determination. WAC 197-10-170.  
20 Counties may designate "environmentally sensitive areas" for the sole  
21 and limited purpose of rendering certain categorical exemptions  
22 inapplicable to actions proposed within those areas, thus reviving  
23 the need for a threshold determination. WAC 197-10-177(1 and 2). In  
24 this case, however, the project site has not been so designated and the  
25 DNR made a threshold determination. The outcome of that determination is  
26 not affected by the fact that the major action will be located near an

1 "environmentally sensitive area".

2 The intervenors finally contend that the DNR's negative threshold  
3 determination was improper on the merits. When reviewing the DNR's  
4 threshold determination we must accord substantial weight to it.  
5 RCW 43.21C.090. After full consideration of the evidence before us, we  
6 conclude that it was not wrong for the DNR to determine that its  
7 proposed development will not significantly affect the quality of the  
8 environment. Further, if San Juan County differed with DNR's threshold  
9 determination, it could have commented on the determination or assumed  
10 lead agency status. WAC 197-10-345. Having failed to take these actions,  
11 the County is bound by the determination. WAC 197-10-390. We therefore  
12 affirm the DNR's negative threshold determination, and conclude that  
13 the DNR has complied with SEPA in this case.

14 IV

15 Proposed Development and Master Program, Shoreline Management Act.

16 Where, as here, there has been adoption and approval of a local shoreline  
17 master program, our task is to determine whether the proposed development  
18 is consistent with (a) that master program and (b) the provisions of  
19 the Shoreline Management Act, chapter 90.58 RCW.

20 Master Program. The San Juan County Master Program encourages  
21 public access to the shorelines and encourages recreation on the shore-  
22 lines. Sections 3.04, Public Access. (Policy No. 1), 5.16, Recreation,  
23 (Policies Nos. 1 and 6) and 6.03, Shorelines of State Wide Significance,  
24 (Policies Nos. 5 and 6). This is specifically the case in shoreline  
25 areas designated "Rural" and "Aquatic" as is the site in question.  
26 Sections 4.04, Rural Environment" (Statement of Purpose and Policy No. 4)

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1 and 4.07, Aquatic Environment, (Statement of Purpose). The only materi-  
2 qualifications to this encouragement of recreation are that resident  
3 preferences should be heard, Section 3.04, Public Access, (Policy No. 3),  
4 that shoreline recreation sites should provide certain public services,  
5 Section 3.06, Recreation, (Policy No. 3), and that sites should be  
6 established according to projected need for recreation, Section 3.06,  
7 Recreation, (Policy No. 5).<sup>1</sup>

8 The development which DNR proposes would provide practical,  
9 controlled, public access to public land. It would also provide  
10 recreational opportunity. The unobtrusive and minimal fixtures which  
11 DNR would place on the site would result in a comfortable but rustic  
12 setting quite consistent with the character of the area. In this  
13 respect, the proposed development is ideally consistent with the  
14 provisions of the Master Program calling for public access and  
15 recreation on the shoreline.

16 Resident preferences in determining public access areas must be  
17 balanced against the state-wide ownership of the public land involved.  
18 Furthermore, the preferences of any citizen cannot determine which  
19 public shoreline will be developed for public access unless firmly  
20 grounded on one of the substantive concerns of the Master Program or  
21 the Shoreline Management Act. We therefore proceed to consider the  
22 substantive concerns.

23 In the matter of public services, the water supply, waste control  
24

25 1. Text of these Master Program provisions is at Finding of Fact  
26 III, above.

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1 measures, regular inspections and fire protection which are proposed  
2 appear to be entirely adequate in light of the size of the site and its  
3 anticipated use. Further, there is no prohibition against practical  
4 cooperation between DNR and local fire and police toward the common  
5 goal of safe, orderly use of this site and its surrounding area.

6 In the matter of projected need for recreation, need exists for  
7 additional boater destination sites in San Juan County. The discrete  
8 and minimal development proposed here will disperse the increasing  
9 demand for pleasure boating while meeting that need.

10 For these reasons, we conclude that DNR's proposed development is  
11 consistent with the San Juan County Master Program.

12 Shoreline Management Act. It is the policy of this state, set  
3 forth in the Shoreline Management Act, that:

14 Alterations of the natural condition of the shorelines  
15 of the state, in those limited instances when authorized,  
16 shall be given priority for single family residences, ports,  
17 shoreline recreational uses including but not limited to  
parks, marinas, piers, and other improvements facilitating  
public access to shorelines of the state . . . .  
RCW 90.58.020. (Emphasis added.)

18 The proposed development is ideally consistent with this legislative  
19 statement of preferred shoreline uses.

20 It is further state-wide policy that:

21 . . . uses shall be preferred which are consistent with  
22 control of pollution and prevention of damage to the natural  
23 environment, or are unique to or dependent upon use of the  
state's shoreline. RCW 90.58.020. (Emphasis added.)

24 Concerning this concept of water dependency, the Supreme Court of  
25 Washington has said:

6  
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1       The policy of preference for water-dependent uses  
2 reflects the legislature's careful attention to an  
3 important concept of environmentally sound land use  
4 planning. . . The policy builds on the fundamental  
5 notions that the use of land should depend to a great  
6 extent on the suitability of a site for the particular  
7 use and that land may possess "intrinsic suitability"  
8 for certain uses. "In principle, only land uses that  
9 are inseparable from waterfront locations should occupy  
10 them; and even these should be limited to those  
11 which do not diminish the present or prospective value  
12 of surface water for supply, recreation or amenity."  
13 I. McHarg, Design With Nature, 58 (1969). Hayes v. Yount,  
14 87 Wn.2d 280, 294 (1976).

15 The proposed development, a boater destination site consisting of two  
16 mooring buoys with a rustic camping and picnic area on shore, is a water  
17 dependent use. It is a use, furthermore, for which the land concerned  
18 is intrinsically suitable and which would not diminish, indeed would  
19 enhance, the value of the surface water for recreation and amenity.

20 For these reasons, we conclude that DNR's proposed development is  
21 consistent with the Shoreline Management Act, chapter 90.58 RCW.

#### 22 V

23 Property Value. The normal effect of the San Juan County Master  
24 Program and the Shoreline Management Act will often be to protect the  
25 value of property surrounding a shoreline site to be developed.  
26 Inappropriate, haphazard development will be prohibited with a consequent  
27 benefit to neighboring owners. The maintenance of surrounding property  
28 values at any cost, however, is not an element of either the San Juan  
29 County Master Program or the Shoreline Management Act.

#### 30 VI

31 Summary. We conclude that DNR's present application for  
32 substantial development on the shorelines of the state (1) is made

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1 after compliance with the State Environmental Policy Act (SEPA),  
2 43.21C RCW; (2) is consistent with the San Juan County Master  
3 Program and the provisions of the Shoreline Management Act, 90.58 RCW,  
4 and (3) should therefore receive a shoreline permit.

5 A shoreline substantial development permit should be issued to DNR  
6 with the following 11 conditions which are necessary to conform the  
7 proposed development to the San Juan County Master Program and the  
8 Shoreline Management Act. Each condition is supported by the testimony  
9 and exhibits presented to the Board. Ten conditions were recommended by  
10 the San Juan County Planning Department (Exhibit A-14, p. 5.) Counsel  
11 for DNR agreed to eight of these conditions during hearing (Nos. 1, 2,  
12 4, 5, 6, 7, 8 and 10) and did not agree to two conditions (Nos. 3 and 9).  
13 Due to the evidence before us we have modified condition No. 3 pertaining  
14 to an upland gate because DNR may not be able to secure the agreement of  
15 private landowners for location of a gate off the DNR site. Also, we  
16 have struck as inappropriate the sentence recommended by the Planning  
17 Department, which originally appeared in condition No. 9 reading:

18 In the event that public use of the site results in any of  
19 these [litter, noise, fires, trespass and vandalism] becoming  
20 serious problems for adjacent and nearby landowners, the  
Board may, upon a showing of good cause, amend or revoke this  
permit.

21 Rescission of a substantial development permit is provided by  
22 RCW 90.58.140(8).

23 Lastly, we have added a new condition, No. 11, requiring the five  
24 campsites to be removed from the timbered area onto the timber's edge.  
25 This is necessary to avoid the potential fire hazard from campfires  
26 in the midst of the often dry timber. Locating these campsites at the

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1 timber's edge results in the maximum concealment of these campsites  
2 which is yet consistent with fire prevention.

3 The 11 conditions are as follows:

4 1. The vault toilets and adjacent garbage can and wood bin shall  
5 not be located in the middle of the open field but shall be relocated  
6 within the trees in the camping area so that they will not be visible  
7 from the water or from any of the surrounding open fields.

8 2. No more than five (5) campsites shall be allowed under this permit.

9 3. No upland public access shall be allowed under this permit, and  
10 the administrative access road to the site shall be gated and locked at  
11 the western boundary of the Firestone (formerly Nordhoff) property,  
12 unless agreement of landowners cannot be obtained in which case the  
13 gate shall be on the western boundary of the DNR site.

14 4. An electric pump and, if necessary, a water storage tank shall  
15 be installed on the well to provide an auxiliary water source for use  
16 in case of fire.

17 5. All signs shall be located against and as close as possible to  
18 a background of trees or other vegetation to ensure that such signs  
19 will not detract from any existing scenic views. No freestanding sign  
20 shall be more than five feet above grade, measured from the top of the  
21 sign.

22 6. No signs (other than the entrance sign and property boundary  
23 signs), garbage containers, wastewater drains, or wood bins shall be  
24 visible from the beach or water.

25 7. A small sign bearing the D.N.R. emblem shall be used as an  
26 entrance sign. The sign shall be no more than three square feet in size

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and shall be installed so that the top of the sign is not more than five feet above grade.

8. All trees planted for screening shall be maintained. None of the existing vegetation on the bank shall be removed.

9. The permittee shall provide a reasonable level of supervision for the recreation site as necessary to minimize problems of litter, noise, fires, trespass, and vandalism for adjacent and nearby property owners.

10. If, during excavation or development of the site, an area of potential archeological significance is uncovered, all activity in the immediate vicinity of the find shall be halted immediately and the Planning Department shall be notified at once. Activities authorized by the permit shall not be delayed more than five working days, following the Planning Department's receipt of the notification, for inspection and disposition of the archeological find unless the permit holder agrees to an extension of that time period.

11. The five campsites shall be located along the timber's edge and combustible material shall be cleared away from the firesites.

#### VII

We have carefully considered other contentions raised by the parties and find them to be without merit.

#### VIII

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions, the Board enters this

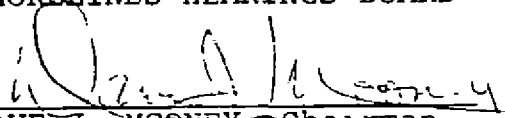
FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

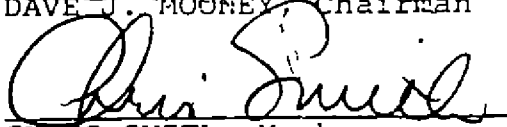
ORDER

This matter is remanded to respondent, San Juan County, with instructions to issue a substantial development permit with the 11 conditions set out in Conclusion of Law VI.

DATED this 9<sup>th</sup> day of October, 1978.

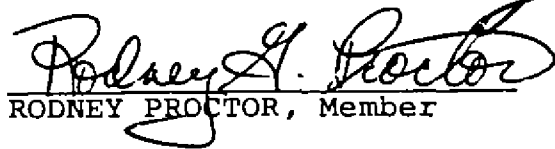
SHORELINES HEARINGS BOARD

  
DAVE J. MOONEY, Chairman

  
CHRIS SMITH, Member

  
DAVID A. AKANA, Member

  
ROBERT E. BEATY, Member

  
RODNEY PROCTOR, Member

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER